

## REMARKS

Claims 1-43 are pending. A Final Office Action mailed June 21, 2005 Claims 1-2, 4, 12, and 27 under 35 U.S.C. § 102(b). By way of this amendment, Applicant hereby amends Claim 1. Pursuant to 37 C.F.R. §1.116, Applicant hereby respectfully requests reconsideration and allowance of the application.

### REJECTION OF CLAIMS 1, 2, 4, 12 AND 27 UNDER 35 U.S.C. § 102

The Office Action rejected Claims 1-2, 4, 12 and 27 as being anticipated by Dragovic U.S. Patent No. 6,195,811. The Office Action states that Dragovic discloses a first portion capable of supporting a product; a second portion which includes a separation component configured to separate the second portion from a support structure by a predefined amount, wherein the predefined amount allowed an adhesive layer that is applied between the second portion and support structure; that the separation component includes a plurality of dimples; and that the bracket may be formed by molding or extruding. With regard to amended independent Claim 1, Applicant hereby respectfully traverses the rejection.

Applicant submits that Dragovic teaches dimples 25, 27 that may have conically shaped segment 31 leading to a flat circular portion 33 (col. 2, lines 21-22) and that the dimples are received within a dimple receptor/cavity 26 as illustrated in Fig. 7, thus forming a direct attachment between the base surface of the bracket and the support structure. No separation is being performed by the dimples of Dragovic.

Applicant submits that the Dragovic fails to teach or suggest a utility bracket having a separation component for separating a second portion from a support structure. Thus, amended independent Claim 1 is allowable over the cited reference. Because Claims 2, 4 and 12 depend from allowable amended independent Claim 1, they are allowable for the same reasons that make their corresponding independent claim allowable. In addition, because independent Claim 27 is similar to independent Claim 1, Claim 27 is also allowable.


46020

CUSTOMER NUMBER

- 8 -

BOEI-1-1203ROA3

BLACK LOWE & GRAHAM <sup>PLLC</sup>

  
701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301

REJECTION OF CLAIMS 1, 2, 12 AND 27 UNDER 35 U.S.C. § 102

The Office Action rejected Claims 1, 2, 12 and 27 as being anticipated by Hara et al., U.S. Patent No. 4,566,924 (hereinafter Hara). The Office Action states that Hara discloses a fixation of a stud on a work piece comprising a first portion capable of supporting a product; a second portion including a separation component, configured to separate the second portion from a support structure by a predefined amount based on an adhesive applied between the second portion and the support structure; and that the bracket can be formed by molding or extruding. With regards to amended independent Claim 1, Applicant respectfully traverses the rejection.

Applicant submits that Hara fails to teach, disclose or suggest a utility bracket wherein the separation component is not formed along an entire length of a boundary edge. Hara discloses a plastic stud 1 possessing a shank 2 and a fitting base 3 provided at one of the shank 2. (col. 2; lines 38-40; Figs. 4-8). Hara discloses a separation component 3, 7, 7', 7a, and 8 wherein the separation component surrounds the entire length of the boundary edge (Figs. 1-8).

Therefore, Applicant submits that amended independent Claim 1 is allowable over the cited references. Because Claims 2 and 12 depend from allowable independent Claim 1, they are allowable for the same reasons that make their corresponding independent claim allowable. In addition, because independent Claim 27 is similar to independent claim 1, Claim 27 is also allowable.

RESPONSE

Applicant hereby submits a response to the following that is included in the Response to Arguments section of the Office Action:

“that ‘wherein’ or ‘whereby’ statement does not define any structure and accordingly can not serve to distinguish and hence could not have patentable significance.”

Applicant submits that In re Lamb states:

“Purely functional “whereby” clause may be disregarded in considering patentability of claims.”


46020

CUSTOMER NUMBER

- 9 -

BOEI-1-1203ROA3

BLACK LOWE & GRAHAM <sup>PLC</sup>

  
701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301

and In re Mason only refers to Claims 10 and 11 that include a whereby statement having the following functional limitation:

“whereby when one such portion is torn transversely along a tearing line a part of the seal of said package is broken, said dished portion extending into the path of the tearing line providing a means of egress for said commodity.”

Applicant states that the wherein clause in Claim 1 does not include functional language. Applicant hereby amends Claim 1 in order to make this clearer. Therefore, Applicant submits that In re Lamb and In re Mason are not applicable because the language after wherein in Claim 1 is purely structural.

“wherein the second portion includes a separation component configured to separate the second portion from the support structure by a predefined amount, wherein the separation component is not located along an entire length of a boundary edge.”

### CONCLUSION

Applicant respectfully submits that all of the claims and drawings of the pending application are now in condition for allowance over the cited references. Accordingly, Applicant respectfully requests withdrawal of the rejections, allowance, and early passage through issuance. If the Examiner has any questions, the Examiner is invited to contact the Applicant's agent listed below.

Respectfully submitted,

BLACK LOWE & GRAHAM<sup>PLLC</sup>



Michael S. Smith  
Registration No. 39,563  
Dial: 206.381.3800


46020

CUSTOMER NUMBER

- 10 -

BOEI-1-1203ROA3

BLACK LOWE & GRAHAM<sup>PLLC</sup>



701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301

**MAIL CERTIFICATE**

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

8/19/05  
Date of Deposit

  
Michelle J. Carman


46020

CUSTOMER NUMBER

- 11 -

BOEI-1-1203ROA3

**BLACK LOWE & GRAHAM<sup>PLLC</sup>**

  
701 Fifth Avenue, Suite 4800  
Seattle, Washington 98104  
206.381.3300 • F: 206.381.3301